

No. 22-15961

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DONALD J. TRUMP, AMERICAN CONSERVATIVE UNION,
RAFAEL BARBOSA, LINDA CUADROS, DOMINICK LATELLA,
WAYNE ALAN ROOT AND NAOMI WOLF,

Plaintiffs-Appellants,

v.

TWITTER, INC., AND JACK DORSEY,

Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California
Case No. 3-21-cv-08378-JD
Hon. James Donato, United States District Judge

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE OPENING
BRIEF**

ANDREI POPOVICI
MARIE L. FIALA
LAW OFFICE OF ANDREI D.
POPOVICI, P.C.
2121 North California Blvd. Suite 290
Walnut Creek, CA 94596
Telephone: (650) 530-9989
Facsimile: (650) 530-9990
Email: andrei@apatent.com
Email: marie@apatent.com

[ADDITIONAL COUNSEL ON
SIGNATURE PAGE]

All the Plaintiffs-Appellants' Opening Briefs in this matter were originally due on August 29, 2022. All Plaintiffs-Appellants requested, and were granted, a streamlined extension of time. The Opening Briefs currently are due on September 28, 2022.

On September 13, 2022, separately represented Plaintiff-Appellant Naomi Wolf ("Dr. Wolf") filed a motion requesting, on several grounds, a 45-day extension of time, to November 14, 2022, in which to file her Opening Brief. Plaintiffs-Appellants Donald J. Trump, American Conservative Union, Rafael Barbosa, Linda Cuadros, Dominick Latella, and Wayne Alan Root ("Moving Plaintiffs") do not oppose that request.

In the event the Court grants Dr. Wolf's motion, the Moving Plaintiffs hereby move pursuant to Federal Rule of Appellate Procedure 26(b) and Ninth Circuit Rule 31-2.2(b) that the deadline for Moving Plaintiffs' Opening Brief also be extended by the same time period by which the Court extends Dr. Wolf's deadline.

As stated in the attached Declaration of Marie L. Fiala, this extension is necessary so that all the Plaintiffs-Appellants' Opening Briefs will be filed on the same date, thus allowing the same amount of time to elapse between Defendants-Appellees' ("Defendants") receipt of all Opening Briefs and the filing of their Answering Brief. Pursuant to Ninth Circuit Rule 28-5, Defendants are limited to

filings a single Answering Brief responding to Dr. Wolf's and Moving Plaintiffs' Opening Briefs. Thus, if Dr. Wolf's motion for an extension of time is granted and this motion is not granted, Defendants effectively will receive an additional 45-day extension of time in which to respond to Moving Plaintiffs' Opening Brief in addition to the time prescribed in the Federal Rules for Appellate Procedure and the Ninth Circuit Rules for filing their Answering Brief.

Counsel for Defendants have stated their position as follows: "In the event that the plaintiffs (despite having alleged they are all part of a single class of similarly individuals) are permitted to file separate briefs in this appeal, those briefs should be filed on the same day so that the remaining briefing may also occur on a single schedule." Defendants' counsel further agree that Moving Plaintiffs may represent that this motion is unopposed.

Dated: September 13, 2022 Respectfully submitted,

ANDREI POPOVICI
MARIE L. FIALA
LAW OFFICE OF ANDREI D. POPOVICI, P.C.

By: *s/ Marie L. Fiala*
Marie L. Fiala

*Attorneys for Plaintiffs-Appellants
Donald J. Trump, American
Conservative Union, Rafael Barbosa,
Linda Cuadros, Dominick Latella, and
Wayne Alan Root*

JOHN P. COALE
2901 Fessenden Street NW
Washington, DC 20008
Telephone: (202) 255-2096
Email: johnpcoale@aol.com

RICHARD POLK LAWSON
GARDNER BREWER HUDSON
400 North Ashley Drive
Suite 1100
Tampa, FL 33602
Telephone: (813) 221-9600
Facsimile: (813) 221-9611
Email: rlawson@gardnerbrewer.com

ALEX KOZINSKI
719 Yarmouth Road Suite 101
Palos Verdes Estates, CA 90274
Telephone: (310) 541-5885
Email: alex@kozinski.com

FRANK C. DUDENHEFER , JR.
THE DUDENHEFER LAW FIRM
L.L.C.
2721 Saint Charles Avenue, Suite 2A
New Orleans, LA 70130
Telephone: (504) 616-5226
Email: fcdlaw@aol.com

JOHN Q. KELLY
MICHAEL J. JONES
RYAN TOUGIAS
IVEY, BARNUM & O'MARA, LLC
170 Mason Street
Greenwich, CT 06830
Telephone: (203) 661-6000
Email: jqkelly@ibolaw.com
Email: mjones@ibolaw.com

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Certificate of Compliance

9th Cir. Case Number(s): No. 22-15961

I am the attorney or self-represented party.

This brief contains 370 words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief (*select only one*):

[X] complies with the word limit of Fed. R. App. P. 27(d)(2) and the page limit of Cir. R. 27-1(1).

[] is a **cross-appeal** brief and complies with the word limit of Cir. R. 28.1-1.

[] is an **amicus** brief and complies with the word limit of Fed. R. App. P. 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).

[] is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.

[] complies with the longer length limit permitted by Cir. R. 32-2(b) because (*select only one*):

[] it is a joint brief submitted by separately represented parties;

[] a party or parties are filing a single brief in response to multiple briefs; or

[] a party or parties are filing a single brief in response to a longer joint brief.

[] complies with the length limit designated by court order dated _____.

[] is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature: *s/ Marie L. Fiala*

Date: September 13, 2022

No. 22-15961

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DONALD J. TRUMP, AMERICAN CONSERVATIVE UNION,
RAFAEL BARBOSA, LINDA CUADROS, DOMINICK LATELLA,
WAYNE ALAN ROOT AND NAOMI WOLF,

Plaintiffs-Appellants,

v.

TWITTER, INC., AND JACK DORSEY,

Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California
Case No. 3-21-cv-08378-JD
Hon. James Donato, United States District Judge

**DECLARATION OF MARIE L. FIALA IN SUPPORT OF UNOPPOSED
MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF**

ANDREI POPOVICI
MARIE L. FIALA
LAW OFFICE OF ANDREI D.
POPOVICI, P.C.
2121 North California Blvd. Suite 290
Walnut Creek, CA 94596
Telephone: (650) 530-9989
Facsimile: (650) 530-9990
Email: andrei@apatent.com
Email: marie@apatent.com

[ADDITIONAL COUNSEL ON
SIGNATURE PAGE]

I, Marie L. Fiala, hereby declare as follows:

1. I am an attorney at law, duly licensed to practice in the State of California and a member in good standing of the Bar of this Court. I am one of the counsel of record for Plaintiffs-Appellants Donald J. Trump, American Conservative Union, Rafael Barbosa, Linda Cuadros, Dominick Latella, and Wayne Alan Root (“Moving Plaintiffs”) in this matter. I make this declaration based on my personal knowledge of the facts set forth herein.

2. All the Plaintiffs-Appellants’ Opening Briefs in this matter were originally due on August 29, 2022. All the Plaintiffs-Appellants requested, and were granted, a streamlined extension of time. The Opening Briefs currently are due on September 28, 2022.

3. On September 13, 2022, separately represented Plaintiff-Appellant Naomi Wolf (“Dr. Wolf”) filed a motion requesting, on several grounds, a 45-day extension of time, to November 14, 2022, in which to file her Opening Brief. The Moving Plaintiffs do not oppose that request.

4. In the event the Court grants Dr. Wolf’s motion, the Moving Plaintiffs hereby move pursuant to Federal Rule of Appellate Procedure 26(b) and Ninth Circuit Rule 31-2.2(b) that the deadline for Moving Plaintiffs’ Opening Brief also be extended by the same time period by which the Court extends Dr. Wolf’s deadline.

5. This extension is necessary so that all the Plaintiffs-Appellants' Opening Briefs will be filed on the same date, thus allowing the same amount of time to elapse between Defendants-Appellees' ("Defendants") receipt of all Opening Briefs and the filing of their Answering Brief.

6. Pursuant to Ninth Circuit Rule 28-5, Defendants are limited to filing a single Answering Brief responding to Dr. Wolf's and Moving Plaintiffs' Opening Briefs. Thus, if Dr. Wolf's motion for an extension of time is granted and this motion is not granted, Defendants effectively will receive an additional 45-day extension of time in which to respond to Moving Plaintiffs' Opening Brief in addition to the time prescribed in the Federal Rules for Appellate Procedure and the Ninth Circuit Rules for filing their Answering Brief.

7. On September 10 and September 12, 2022, I emailed counsel of record for all parties to advise that the Moving Plaintiffs would seek this extension and asking whether they would oppose the motion. Counsel for Defendants stated their position as follows: "In the event that the plaintiffs (despite having alleged they are all part of a single class of similarly individuals) are permitted to file separate briefs in this appeal, those briefs should be filed on the same day so that the remaining briefing may also occur on a single schedule." Defendants' counsel further agree that Moving Plaintiffs may represent that this motion is unopposed.

I hereby declare under the laws of the State of California and the United States of America that the foregoing is true and accurate and that this declaration was executed on September 13, 2022, in Orinda, California.

s/ Marie L. Fiala

Marie L. Fiala